

W/O

SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI

<p>STATE OF ARIZONA (Plaintiff)</p> <p>vs.</p> <p>STEVEN CARROLL DEMOCKER (Defendant)</p>	<p>Case No. P1300CR20081339</p> <p><b>UNDER ADVISEMENT RULING</b> <b>Re: Defendant's Motion to</b> <b>Preclude Late Disclosed</b> <b>Evidence from the State's 59<sup>th</sup></b> <b>through 62<sup>nd</sup> Disclosures</b></p>	<p>FILED</p> <p>DATE: JUL 28 2010</p> <p>A O'Clock P M.</p> <p>JEANNE HICKS, CLERK</p> <p>BY: SHEETAL PATEL Deputy</p>
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<p>HONORABLE Thomas B. Lindberg</p> <p>DIVISION SIX</p>	<p>BY: Robin Gearhart / Judicial Assistant Division Six</p> <p>DATE: July 26, 2010</p>
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On April 15, 2010, State of Arizona filed State's 59<sup>th</sup> Supplemental Disclosure; April 16, 2010 State's 60<sup>th</sup> Supplemental Disclosure; and April 21, 2010 State's 61<sup>st</sup> and 62<sup>nd</sup> Supplemental Disclosures. On April 30, 2010, Defendant, through counsel, filed a Motion to Preclude Late Disclosed Evidence, Witnesses and Exhibits from the State's 59<sup>th</sup> through 62<sup>nd</sup> Disclosures.

At a hearing on May 11, 2010, the Court heard argument with regard to Defendant's Motion, specifically Section 6: Sorenson, and took the matter *under advisement*. The Court advised it will consider what sanction to impose, which may include a reimbursement of the Defense expert's costs. In addition, the Court directed Defense Counsel to provide the Court with information regarding the Defense expert's expense in going to Sorenson and being present for the testing.

Subsequent to above, additional Motions were filed by the State and Defense which have been reviewed by the Court.

This Judge, Honorable Thomas B. Lindberg, has pendant jurisdiction regarding the *under advisement* issue of financial sanctions though the case has now been assigned to the Honorable Warren R. Darrow.

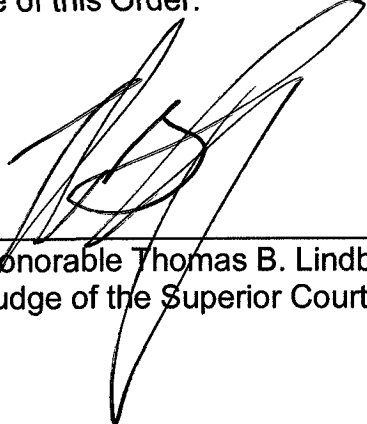
The full costs of defense attorneys and experts are not awarded since the costs were to be expended in any event; but additional incremental costs were sustained by the failure of the State/County Attorney's Office, or agents, to follow the Orders of the Court regarding handling of scientific evidence.

JUL 28 2010

Thus, in addition to other sanctions considered,

**IT IS HEREBY ORDERED** the Yavapai County Attorney shall pay to Defendant, via the offices of John M. Sears, the amount of \$850.00 for distribution as defense team deems appropriate. Such payment to be made within forty-five (45) days from date of this Order.

DATED: This 26<sup>th</sup> day of July, 2010.



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Honorable Thomas B. Lindberg  
Judge of the Superior Court / Division 6

*Attachment (Certification)*

cc: Joseph C. Butner III, Esq., Office of the Yavapai County Attorney (**via facsimile to 928-771-3110**)  
John M. Sears, Esq., 107 North Cortez Street, Suite 104, Prescott, Arizona 86301 (**via facsimile to 928-445-1472**)  
Larry A. Hammond, Esq., Anne M. Chapman, Esq., Osborn Maledon, P.A., 2929 North Central Avenue, 21<sup>st</sup> Floor, Phoenix, Arizona 85012-2793 (**via facsimile to 602-640-6076**)  
Dean Trebesch, Contract Administrator, Office of the Yavapai County Public Defender (**via facsimile to 928-771-3413**)  
Victim Services: Attn. Marie Martinez

FILED

JUN 23 2010

RACHELLE M. RESNICK  
CLERK SUPREME COURT  
BY

**CERTIFICATION**

As Chief Justice of the Supreme Court of Arizona, pursuant to A.R.S. § 12-128.01, I hereby certify to the following regarding The Honorable Thomas B. Lindberg, Judge, Superior Court in Yavapai County.

Judge Lindberg has requested that application of A.R.S. § 12-128.01 be excused in the following currently pending and undetermined matters:

*State v. Steven Carroll DeMocker*  
P1300CR20081339

*State v. Rey David Villegas-Munoz*  
P1300CR20081137

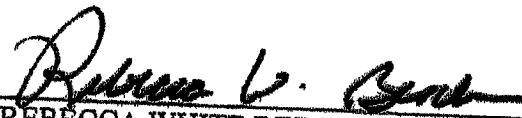
*State v. Shawn Christian Reel*  
P1300CR20090148

Judge Lindberg advises that due to a serious medical emergency that occurred on June 17, 2010, he is requesting an extension to the 60-day Rule.

I find that the reason provided by Judge Lindberg constitutes good and sufficient cause for excusing the application of A.R.S. § 12-128.01.

This certification shall remain in effect until August 23, 2010.

Dated this 23<sup>rd</sup> day of June, 2010.

  
REBECCA WHITE BERCH  
Chief Justice

cc: Hon. Robert M. Brutinel, Presiding Judge, Superior Court in Yavapai County  
Hon. Thomas B. Lindberg, Judge, Superior Court in Yavapai County  
Jeanne Hicks, Clerk of the Court, Superior Court in Yavapai County  
Don Bentley, Financial Officer, Finance, Administrative Office of the Courts  
Payroll, Administrative Office of the Courts  
Yavapai County Finance Department – Payroll